

Message Text

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DRAFTED BY EB/IFD/BP:L MCARTHUR
APPROVED BY EB/IFD/BP:A P ADAMS
EB/IFD/BP - T A SCHL:NER
ARA - G SANTILLANA
COPYRIGHT OFFICE - J BAUMGARTEN
COMMERCE - J LIGHTMAN
DESIRED DISTRIBUTION
COMMERCE, COPYRIGHT OFFICE
-----021916 190753Z /17
R 181840Z MAY 78
FM SECSTATE WASHDC
TO AMEMBASSY SANTO DOMINGO

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E.O. 11652: N/A

TAGS: EIND

SUBJECT: PIRACY OF WORKS OF U.S. NATIONALS IN THE
DOMINICAN REPUBLIC

1. THE DEPARTMENT HAS RECENTLY BEEN INFORMED OF A SERIOUS
BOOK PIRACY PROBLEM IN THE DOMINICAN REPUBLIC. MILLIAM
CUSICK, ASSISTANT GENERAL COUNSEL FO, MCGRAW-HILL, INC.,
TOLD STATE AND COMMERCE DEPT OFFICIALS THAT THERE ARE AT
LEAST 14 FIRMS IN SANTO DOMINGO ENGAGING IN UNAUTHORIZED
REPRODUCTION AND TRANSLATION OF BOOKS BY U.S. AUTHORS.
MR. CUSICK FEELS AMOUNT OF PIRACY EXISTING IN DOMINICAN
REPUBLIC IS ERODING COMMERCIAL MARKET FOR BOOKS IN THAT
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COUNTRY. AS YET, HE KNOWS OF NO INSTANCES WHERE THESE
BOOKS HAVE BEEN EXPORTED FROM DOMINICAN REPUBLIC, HOWEVER,
HE BELIEVES IT IS ONLY A MATTER OF TIME BEFORE THESE BOOKS
ARE EXPORTED. MR. CUSICK ALSO POINTED OUT THAT THERE IS
NO CONFISCATION OF PIRATED BOOKS BY THE POLICE IN THE
DOMINICAN REPUBLIC.

2. MCGRAW-HILL IS RELUCTANT TO FILE A SUIT IN THE DOMINICAN COURTS BECAUSE THE COMPANY BELIEVES THAT THIS WOULD BE A LONG, EXPENSIVE, AND FRUITLESS PROCEDURE. MR. CUSICK MENTIONED THAT SUCH A CASE COULD TAKE FROM 3 TO 5 YEARS TO COMPLETE, IF A DECISION IS HANDED DOWN AT ALL. THE COMPANY HAS EXPRESSED AN INTEREST IN A GOVERNMENT-TO-GOVERNMENT APPROACH AS A MEANS OF CURBING BOOK PIRACY.

3. THE DOMINICAN REPUBLIC IS NOT A MEMBER OF THE UNIVERSAL COPYRIGHT CONVENTION, BUT IS A PARTY, WITH THE UNITED STATES, TO THE BUENOS AIRES CONVENTION OF 1910. THERE IS NO DOUBT THAT LITERARY WORKS ARE WITHIN THE SUBJECT MATTER OF THIS CONVENTION AND, UNDER ARTICLE 3, COPYRIGHTS ARE PROTECTED ON A RECIPROCAL BASIS; THAT IS,

-- QTE: ACKNOULEDGMET OF A COPYRIGHT OBTAINED IN ONE STATE, IN CONFORMITY WITH ITS LAWS, SHALL PRODUCE ITS EFFECTS OF FULL RIGHT IN ALL OTHER STATES WITHOUT THE NECESSITY OF COMPLYING WITH ANY OTHER FORMALITY, PROVIDED ALWAYS THERE SHALL APPEAR IN THE WORK A STATEMENT THAT INDICATES THE RESERVATION OF THE PROPERTY RIGHT. UNQTE

ALTHOUGH THE MOST COMMON STATEMENT INDICATING THE RESERVATION OF COPYRIGHT IS "ALL RIGHTS RESERVED," THE CONVENTION DOES NOT REQUIRE ANY SET FORM OF STATEMENT AND, UNDOUBTEDLY, THE NORMAL U.S. COPYRIGHT NOTICE ("C" IN A LIMITED OFFICIAL USE

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CIRCLE, OR THE WORD "COPYRIGHT" OR ITS ABBREVIATION "COPR" THE YEAR OF FIRST PUBLICATION; AND NAME OF COPYRIGHT OWNER) SHOULD SUFFICE. THE BUENOS AIRES CONVENTION SHOULD, THEREFORE, PROVIDE A BASIS FOR A U.S. COPYRIGHT PROPRIETOR TO CLAIM THE PROTECTION OF DOMINICAN COPYRIGHT LAW.

4. THE DOMINICAN COPYRIGHT STATUTE OF 1947 CONTAINS EXTENSIVE CRIMINAL PENALTIES INCLUDING FINES AND IMPRISONMENT. ARTICLE 36 ALSO PERMITS CIVIL AND CRIMINAL COURTS, UPON THE PETITION OF THE INJURED PARTY, TO ORDER THE CONFISCATION OF COPIES INTENDED FOR SALE AND DESTRUCTION OF THE TYPE AS WELL AS THE CONFISCATION OF THE ORIGINALS, PROOFS, BLOCKS, PLATES, AND OTHER MATERIALS USED TO REPRODUCE THE INFRINGING COPIES. UNDER ARTICLE 39 OF THE DOMINICAN COPYRIGHT STATUTE, AUTHORS MAY INSTITUTE CIVIL PROCEEDINGS FOR DAMAGES INDEPENDENTLY OF ANY PENAL ACTION. THUS, DOMINICAN COPYRIGHT LAW PROVIDES READY MEANS OF REDRESS FOR COPYRIGHT INFRINGEMENTS COMMITTED ON THEIR TERRITORY.

5. KEEPING THE OPTIONS PRESENTED ABOVE IN MIND, DEPT

WISHES TO KNOW WHAT COURSE OF ACTION EMBASSY DEEMS MOST
APPROPRIATE FOR MCGRAW-HILL TO TAKE, AND HOW EMBASSY
FEELS IT CAN BE OF MOST EFFECTIVE ASSISTANCE TO COMPANY.
VANCE

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Message Attributes

Automatic Decaptioning: Z
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Control Number: n/a
Copy: SINGLE
Draft Date: 18 may 1978
Decaption Date: 20 Mar 2014
Decaption Note: 25 YEAR REVIEW
Disposition Action: RELEASED
Disposition Approved on Date:
Disposition Case Number: n/a
Disposition Comment: 25 YEAR REVIEW
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Disposition Event:
Disposition History: n/a
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